

## Agricultural Marketing Service, USDA

## § 906.31

### § 906.26 Vacancies.

To fill committee vacancies, the Secretary may select such members or alternates from unselected nominees on the current nominee list from the district and group involved, or from nominations made in the manner specified in § 906.23. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, such vacancy may be filled without regard to nominations, which selection shall be made on the basis of representation provided for in §§ 906.20 through 906.22, inclusive.

### § 906.27 Alternate members.

An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate, during such member's absence or when designated to do so by the member for whom he is an alternate. In the event both a member and his alternate are unable to attend a committee meeting, the committee members present may designate another alternate of the same classification (handler or producer, and to the extent practical, independent, or co-op) to serve in such member's place and stead. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor of such member is selected and has qualified.

[31 FR 10462, Aug. 4, 1966]

### § 906.28 Procedure.

Ten members of the committee shall be necessary to constitute a quorum, six of whom shall be producer members. Ten affirmative votes shall be required to pass any motion or approve any committee action. All votes shall be cast in person.

### § 906.29 Expenses and compensation.

The members of the committee, and alternates, shall serve without compensation; but they may be reimbursed for expenses necessarily incurred by them in the performance of their duties and in the exercise of their powers under this subpart.

### § 906.30 Powers.

The committee shall have the following powers:

- (a) To administer the provisions of this part in accordance with its terms;
- (b) To make rules and regulations to effectuate the terms and provisions of this part;
- (c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this part; and
- (d) To recommend to the Secretary amendments to this part.

### § 906.31 Duties.

It shall be, among other things, the duty of the committee:

- (a) At the beginning of each term of office, to meet and organize, to select a chairman and such other officers as may be necessary, to select sub-committees, and to adopt such rules and regulations for the conduct of its business as it may deem advisable;
- (b) To act as intermediary between the Secretary and any producer or handler;
- (c) To furnish to the Secretary such available information as he may request;
- (d) To appoint such employees, agents, and representatives as it may deem necessary and to determine the salaries and define the duties of each such person;
- (e) To require adequate fidelity bonds for all persons handling funds;
- (f) To investigate from time to time and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to fruit;
- (g) To prepare a marketing policy;
- (h) To recommend marketing regulations to the Secretary;
- (i) To recommend rules and procedures for, and to make determinations in connection with, issuance of certificates of privilege;
- (j) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee; and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or representative; and minutes of each committee meeting shall be promptly submitted to the Secretary;

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(k) At the beginning of each fiscal period, to prepare a budget of its expenses for such fiscal period, together with a report thereon;

(l) To cause the books of the committee to be audited by a competent accountant at least once each fiscal period, and at such other time as the committee may deem necessary or as the Secretary may request (the report of each such audit shall show the receipt and expenditure of funds collected pursuant to this part; a copy of each such report shall be furnished to the Secretary and a copy of each report shall be made available at the principal office of the committee for inspection by producers and handlers); and

(m) To consult, cooperate, and exchange information with other marketing agreement committees and other individuals or agencies in connection with all proper committee activities and objectives under this part.

### **EXPENSES AND ASSESSMENTS**

#### **§ 906.32 Expenses.**

The committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred during each fiscal period for its maintenance and functioning, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Each handler's share of such expense shall be proportionate to the ratio between the total quantity of fruit handled by him as the first handler thereof during a fiscal period and the total quantity of fruit handled by all handlers as first handlers thereof during such fiscal period.

#### **§ 906.33 Budget.**

At the beginning of each fiscal period and as may be necessary thereafter, the committee shall prepare an estimated budget of income and expenditures necessary for the administration of this part. The committee shall recommend the rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget to the Secretary with an accompanying report showing the basis for its estimates and recommendations.

## **7 CFR Ch. IX (1-1-04 Edition)**

#### **§ 906.34 Assessments.**

(a) The funds to cover the committee's expenses shall be acquired by the levying of assessments upon handlers as provided in this subpart. Each handler who first handles fruit shall, with respect to the fruit so handled by him, pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of the committee's expenses.

(b) Assessments shall be levied upon handlers at rates established by the Secretary. Such rates may be established upon the basis of the committee's recommendations and other available information. Such rates may be applied to specified containers used in the production area.

(c) The rate of assessment may be increased at any time by the Secretary if he finds such increase is necessary in order that the money collected shall be adequate to cover the committee's expenses during a given fiscal period. Such increase shall be applicable to all fruit handled during such fiscal period.

(d) The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions of this part are suspended or become inoperative.

#### **§ 906.35 Accounting.**

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess shall be accounted for in accordance with one of the following:

(1) If such excess is not retained in a reserve, as provided in paragraph (a)(2) of this section, it shall be refunded proportionately to the persons from whom collected.

(2) The committee, with the approval of the Secretary may carry over such excess into subsequent fiscal periods as a reserve: *Provided*, That funds already in the reserve do not equal approximately 1 fiscal period's expenses. Such reserve funds may be used for any expenses authorized pursuant to § 906.32 and for necessary expenses of liquidation in the event of termination of this part. Upon such termination, any funds not required to defray the necessary